



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms by Repealing and Re-enacting Section 5.12.140 "Rules and Regulations" and further Repealing and Re-enacting Section 5.12.170 "Gross Revenue Permit Fees"

MEETING DATE: September 19, 2012

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Introduce Ordinance amending Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms by repealing and re-enacting Section 5.12.140 "Rules and Regulations" and further repealing and re-enacting Section 5.12.170 "Gross Revenue Permit Fees."

BACKGROUND INFORMATION: At the February 1, 2012 City Council meeting, staff requested direction from the Council regarding amendments to the cardroom ordinance proposed by Wine Country Cardroom. Following that meeting, the following proposed changes were submitted to the Attorney General's office for their review and approval:

- 1) Cap Card Room License Fee at \$20,000 on the first \$240,000 of monthly gross revenue the permittee received from cardroom operations, and 4.5% of monthly gross revenue in excess of \$240,000;
- 2) Allow the cashing of checks and issuance of credit to the extent permitted by State law;
- 3) Allow two additional tables;
- 4) Eliminate limits on players per table;
- 5) Eliminate specific daily hourly operation limits in favor of a maximum limit of 140 hours per week
- 6) Allow gaming in any rooms with an exterior unlocked door (instead of the current main entrance requirement).

The typical turnaround time for the Attorney General's review and approval is 30 days. However, because of the proposed change to the hours of operation, the changes were significantly delayed. After three months and several inquiries by the City Attorney's office, Wine Country Cardroom asked that the City resubmit the requested changes with a revision to the hours of operation to read as follows:

"Cardrooms may be operated seven days a week and shall not open until the hour of nine a.m. Cardrooms shall close no later than five a.m. A cardroom shall adopt a schedule of hours of operation before it shall be allowed to operate. Such schedule of hours shall be clearly posted at the cardroom in order to provide adequate notice of its hours of operation."

APPROVED:

A handwritten signature in black ink, appearing to read "Konrad Bartlam".

Konrad Bartlam, City Manager

By letter dated August 7, 2012 (copy attached), the Attorney General's office has approved all of the requested changes with the revised hours of operation.

Staff recommends that the City Council consider introducing the attached Ordinance.

The Police Department and Community Development Department have both indicated that they have no history of complaints or enforcement issues as the cardroom is currently operated.

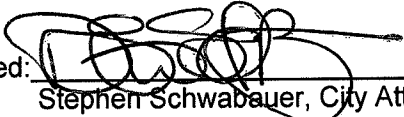
FISCAL IMPACT: On a calendar year basis, the existing fee structure produces:

- Actual 2010 Fee \$310,887
- Actual 2011 Fee \$358,680
- Projected 2012 Fee \$428,386

The proposed fee structure would produce:

- Actual 2010 Fee \$265,844
- Actual 2011 Fee \$289,740
- Projected 2012 Fee \$324,593

Approved: _____


Stephen Schwabauer, City Attorney

Approved: _____


Jordan Ayers, Deputy City Manager/
Internal Services Director

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE



BUREAU OF GAMBLING CONTROL
P. O. Box 168024
Sacramento, CA 95816-8024
Public: (916) 227-2363
Fax: (916) 227-1812

August 7, 2012

AUG 09 2012
CITY ATTORNEYS OFFICE

Mr. D. Stephen Schwabauer
City Attorney
PO Box 3006
Lodi, California 95241-1910

Re: City of Lodi's Gambling Ordinance

Dear Mr. Schwabauer:

On July 2, 2012, the Bureau of Gambling Control (Bureau) received the revised draft of the proposed amendments to the Lodi Municipal Code 5.12 "Cardrooms," in accordance with Business and Professions (B&P) Code section 19961.1.

The Bureau offers the following comments regarding the submitted amendments:

The proposed changes to increase the maximum number of gaming tables from eleven to thirteen in each gambling establishment per B&P Code section 19961.06, complies with applicable provisions of the Act.

The proposed changes including the Cap Card Room License Fee; the cashing of checks and issuance of credit; the elimination of player limits per table; and the allowance of gaming in any room with an exterior unlocked door, all comply with applicable provisions of the Gambling Control Act.

The proposed amendment, specifically Section 5.12.140(F), states that "Cardrooms may be operated seven days a week and shall not open until the hour of nine a.m. Cardrooms shall close no later than five a.m." In 1996, the City of Lodi allowed cardrooms to operate 112 hours per week. The proposed increase would permit cardrooms in the City of Lodi to operate 140 hours per week. We find this to be permissible under the Gambling Control Act (Act).


D. Stephen Schwabauer

August 7, 2012

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Upon approval and adoption of the proposed amendments, please provide the Bureau with a signed certified copy of the amendments. If you have any questions, please contact Analyst Brenda Weygandt of my staff at (916) 227-5681. Thank you for your cooperation in this matter.

Sincerely,


for NORM PIERCE
Assistant Bureau Chief
Bureau of Gambling Control

For KAMALA D. HARRIS
Attorney General

ORDINANCE NO. _____

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING
CHAPTER 5.12 "CARDROOMS" BY REPEALING AND
REENACTING SECTIONS 5.12.140 "RULES AND REGULATIONS"
AND 5.12.170 "GROSS REVENUE PERMIT FEES" IN THEIR
ENTIRETY

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 5.12.140 "Rules and Regulations" is hereby repealed and reenacted to read as follows:

5.12.140 Rules and Regulations.

It is unlawful to operate a cardroom in violation of any of the following regulations and rules:

- A. Not more than one cardroom shall be located at any one address.
- B. Only those games approved by and as defined by the California Office of the Attorney General, Bureau of Gambling Control, shall be played in any cardroom.
- C. Not more than ~~eleven~~ **thirteen** tables shall be permitted in any cardroom. No more than ~~eleven~~ **thirteen** tables shall be permitted to operate within the city.

~~D. Not more than ten players shall be permitted at any one cardtable.~~

~~ED. Cardrooms shall be located on the ground floor, and so arranged that cardtables and the players at the tables shall be plainly visible from the front door opening when the door is opened. No wall, partition, screen or similar structure between the front door opening on the street and any cardtable located in the cardroom shall be permitted if it interferes with the visibility.~~ No gambling establishment may be located in any zone which has not been specifically approved for such a business. Additionally, none may be located near any of the unsuitable areas, as specified in Business and Professions Code Section 19852(a)(3).

~~FE.~~ No person under the age of twenty-one shall be permitted at any cardtable, nor shall any person under the age of twenty-one be permitted to participate in any game played thereat.

~~GF.~~ Cardrooms may be operated seven days a week and shall not open until the hour of ~~eight~~ **nine** a.m. Cardrooms shall close no later than ~~four~~ **five** a.m. A cardroom shall adopt a schedule of hours of operation before it shall be allowed to operate. Such schedule of hours shall be clearly posted at the cardroom in order to provide adequate notice of its hours of operation.

~~HG.~~ All cardrooms shall be open to police inspection during all hours of operation.

~~IH.~~ Only table stakes shall be permitted.

I. The cashing of bank checks for players or extensions of credit to players shall be in full compliance with the California Gambling Law and Regulations. No

cardroom shall extend credit or cash checks for players in a manner not authorized by State law.

~~J. —The cashing of bank checks for players shall not be permitted in any cardroom.~~

~~KI-J.~~ Each cardtable shall have assigned to it a person whose duty shall be to supervise the game to see to it that it is played strictly in accordance with the terms of this chapter, and with the provisions of the penal code of the state. This person may have more than one table under his supervision. He shall not, however, participate in the game.

~~LJ-K.~~ There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that only games approved by and as defined by the California Office of the Attorney General, Bureau of Gambling Control, shall be played in the cardroom. These signs shall also contain such other information relating to the regulations contained in this chapter as the Chief of Police may require.

~~MK-L.~~ No person who is in a state of intoxication shall be permitted in any cardroom.

~~N-M.~~—The sale, purchase, transfer, assignment, or pledge of any property, or of any document evidencing title to the same, is prohibited in any cardroom.

~~O.N.~~ The operator or his employees shall not ~~extend credit to a player, nor shall he accept IOU's or other notes,~~ loan money to any person on any ring, watch, or other article of personal property for the purpose of securing tokens, chips, or other representatives of money as an ante.

~~P.O.~~ No shills shall engage in card games. This prohibition shall not apply to house players, provided they wear a badge in a conspicuous place, which badge identifies them as employees of the licensee.

~~Q.P.~~ Patron Security and Safety. Each cardroom license shall be responsible and liable for its patrons' safety and security in and around the cardroom establishment. Before it shall be allowed to operate, each cardroom shall adopt a plan, to be approved by the city, to provide for the safety and security of its patrons.

SECTION 2. Lodi Municipal Code Section 5.12.170 "Gross Revenue Permit Fees," is hereby repealed and reenacted to read as follows:

5.12.170 Gross Revenue Permit Fees.

A. In addition to the permit fees previously prescribed each permittee permitted pursuant to the provisions of this article shall pay to the city a monthly fee equal to ~~nine percent (9%) of the gross revenue of the permittee received from the cardroom operation~~ **\$20,000.00 on the first \$240,000.00 of monthly gross revenue the permittee received from cardroom operations, and 4.5 % of monthly gross revenue in excess of \$240,000.00.** Such payment shall be made to the city not later than fifteen days after the end of each month during which such gross revenues on which it was computed were received by the permittee.

B. Each permittee shall file with the Finance Department before the 15th day following the end of each month a statement, under oath, showing the true and correct amount of

gross revenue derived from the card game business permitted by the permit issued to the permittee for the preceding month. Such statement shall be accompanied by the payment of the correct amount of permit fee due and owing in accordance with the provisions of subsection (a) of this section, and such sums correctly reflecting the monthly fees payable for the preceding month shall be accepted by the city, subject, however, to the right of the city to audit the matters reported in the statement to determine the accuracy of the figures contained therein and whether or not the correct amount payable to the city has been paid.

A signed declaration shall be attached to the statement or included therein, which shall be in substantially the same form:

"I hereby declare under penalty of perjury that the foregoing is true and correct."

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 7. The amended Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after January 1, 2012, or the first date allowable under State law.

Approved this ____ day of _____, 2012

JOANNE L. MOUNCE
MAYOR

ATTEST:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held September 19, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney